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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/812,749 | 03/29/2004 | Robert J. Simmons | J-BSIM.1013 | 5475 |
| 56703 | 7590 | 11/29/2006 | EXAMINER | |
| ROBERT D. VARITZ, P.C. 4915 SE 33RD PLACE PORTLAND, OR 97202 | | | LUPINO, GINA M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3652 | |

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,749

Applicant(s)

SIMMONS, ROBERT J.

Examiner

Gina M. Lupino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

I. Cancelled Claims

1. Claims 3, 4, and 6 have been cancelled and therefore withdrawn from consideration.

II. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over GOODACRE (U.S.

Patent No. 3,268,033) in view of CERNY (U.S. Patent No. 5,644,111).

- 1.1. With respect to claim 1, GOODACRE discloses a machine-liftable and maneuverable, open cage-like load transporter 30 for handling and promoting installation-site delivery of building-frame beam components during the construction of a plural story structural building frame with a fork-receiving side and an opposite, load lateral-delivery side, with:

1.1(a) A cage-like worker occupancy volume 44 fully occupying the inside of a worker-carrying cage-like structure defined by substantially horizontal floor structure 31 which is joined to substantially upwardly extending, open, and at least partially floor perimeter 38 wall structure 32, 36, 42, and

1.1(b) Disposed substantially directly overhead said floor 31 and wall structures 32, 36, 42, and above said worker occupancy volume, generally upwardly facing, open, horizontal, elongate, load-support deck structure 35 having one end adjacent the mentioned load-lateral-delivery side, and an opposite end defined by upwardly extending load-stop riser structure, said deck-structure being adapted for the overhead

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capable of supporting and load-carrying of all elongate building-frame beam components, which are to be handled by the transporter,

1.1(c) said deck structure 35 having an open framework

1.1(d) See Figures 1-5 and column 3, lines 19-25, 44-48.

1.2. However, GOODACRE fails to teach the deck structure is open to the underlying worker occupancy volume.

1.3. CERNY teaches an elevator with an opening 23 on the ceiling of the elevator cab.

1.4. Therefore, it would have been obvious to one of ordinary skill in the art to modify the ceiling deck structure of GOODACRE with an opening or hatch to facilitate a worker's access to the area above the worker occupancy volume 44.

2. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over GOODACRE (U.S. Patent No. 3,268,033) in view of THOMAS (U.S. Patent No. 2,639,051), and further CERNY (U.S. Patent No. 5,644,111).

2.1. With respect to claim 2, GOODACRE, as modified by CERNY, discloses a transporter, as discussed above, with a building-frame-facing side and a deck structure 35

2.1(a) However, GOODACRE, as modified, fails to teach a deck structure equipped adjacent its one end with a deployable lateral extension which can be extended and withdrawn laterally outwardly from and inwardly toward the transporter's load-lateral-deliver side to form, when extended outwardly, a co-planar lateral extension of the load-support deck structure.

2.1(b) THOMAS teaches a transporter 10 with a deployable lateral extension 16, 18 which can be extended and withdrawn outwardly inwardly with respect to the transporter's building load-lateral-deliver side capable of forming a co-planar lateral extension of the load-support deck structure. See Figures 1, 2, 4, 8, 22, 23.

2.1(c) Therefore, it would have been obvious to one of ordinary skill in the art to further modify GOODACRE with the deployable lateral extension of THOMAS in order to accommodate the transport and delivery of a building-frame beam component toward an installation site.

2.2. With respect to claim 5, GOODACRE, as modified, discloses a transporter, as discussed above,

2.2(a) Designed with the capability of handling generally T-shaped beam components that each may include angularly intersecting and interconnected elongate cap and stem sub-components, and

2.2(b) For this purpose deck structure 35 includes a pair of elongate, laterally spaced beam-like elements 36 (See Figure 5) whose long axes extend from transporter's fork-receiving side toward its load-lateral delivery side (See Figures 1-5),

2.2(c) Which pair of beam-like elements 36 are capable of supporting cap sub-component in a T-shaped beam component with cap sub-component's long axis extending generally transversely of the long axes of the beam-like elements 36 in the pair, and

2.2(d) Closely adjacent the load-stop riser structure,

2.2(e) However, GOODACRE, as modified, fails to teach a lateral extension has an elongate beam-like cross-piece which,

2.2(e)(i) with the extension deployed and extending outwardly adjacent the transporter's load-lateral-delivery side,

2.2(e)(ii) is disposed to support the stem sub-component in a T-shaped beam component with the long axis of that stem sub-component extending generally transversely relative to the long axis of the cross-piece.

2.2(f) THOMAS teaches a transporter 10 with a deployable lateral extension 16, 18 which

2.2(f)(i) can be extended outwardly adjacent the transporter's 10 load-lateral-delivery side

2.2(f)(ii) and is capable of supporting a stem sub-component in a T-shaped beam component with the long axis of that stem sub-component extending generally transversely relative to the long axis of the cross-piece. See Figures 1, 2, 4, 8, 22, 23

2.2(g) Therefore, it would have been obvious to one of ordinary skill in the art to further modify GOODACRE with the lateral extension of THOMAS in order to support a T-shaped beam component.

III. Response to Applicant's Arguments

Applicant's arguments entered September 13, 2006 have been fully considered.

- 1. Applicant's arguments with respect to the objection of claims 4 and 5 are persuasive.**
- 2. Applicant's argument with respect to the rejection of claim 1 under 35 USC § 112 are persuasive.**
- 3. Applicant's argument with respect to the rejection of claim 1 under 35 U.S.C. 102(b) is not persuasive.**

3.1. With respect to claim 1, Applicant argues the cited reference is missing features recited by independent claim 1. The Examiner disagrees with the Applicant.

3.1(a) With respect to claim 1, Applicant argues GOODACRE "does not disclose such a structure which is other than for holding, inside, a load, per se, rather than any worker", does not include an open, overhead expanse, and there is no reason to have the cage-like structure open at its top.

3.1(b) However, the Examiner disagrees with the Applicant.

3.1(c) GOODACRE discloses a machine-liftable and maneuverable, open cage-like load transporter 30, capable of holding either a worker or load, as discussed above.

3.1(d) Furthermore, although GOODACRE fails to teach the deck structure is open to the underlying worker occupancy volume, CERNY teaches an elevator with an opening on the ceiling of the elevator cab. Therefore, GOODACRE, in view of CERNY suggest a cage-like load transporter with an opening or hatch in the top to facilitate a worker's access to the area above the worker occupancy volume.

4. Applicant's arguments with respect to the rejection of claims 2 and 5 under 35 U.S.C. 103(a) are not persuasive.

4.1. With respect to claims 2 and 5, Applicant argues THOMAS

4.1(a) does nothing to mend the deficiencies mentioned in GOODACRE and

4.1(b) does not show or suggest anything "remotely resembling applicant's deployable, load-support-deck-coplanar, lateral extension".

4.2. The Examiner disagrees with the Applicant.

4.3. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

4.4. As discussed above, GOODACRE, in view of CERNY, teaches the limitations of claim 1.

4.5. With respect to claim 2, although GOODACRE fails to teach

4.5(a) a deck structure equipped with a deployable lateral extension,

4.5(b) THOMAS clearly suggests deployable lateral extension that can be extended and withdrawn outwardly inwardly with respect to a transporter's building load-lateral-

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deliver side, capable of forming a co-planar lateral extension of the load-support deck structure. See Figures 1, 2, 4, 8, 22, 23.

4.5(c) Therefore, it would have been obvious to one of ordinary skill in the art to modify GOODACRE with a deployable lateral extension, as taught by THOMAS, specifically, in order to accommodate the transport and delivery of a building-frame beam component toward an installation site.

4.6. Also, with respect to claim 5, although GOODACRE fails to teach

4.6(a) a lateral extension with an elongate beam-like cross-piece, as discussed above,

4.6(b) THOMAS clearly teaches a transporter with a deployable lateral extension which can be extended outwardly adjacent the transporter's load-lateral-delivery side and is capable of supporting a stem sub-component in a T-shaped beam component with the long axis of that stem sub-component extending generally transversely relative to the long axis of the cross-piece. See Figures 1, 2, 4, 8, 22, 23

4.6(c) Therefore, it would have been obvious to one of ordinary skill in the art to modify GOODACRE with the lateral extension of THOMAS, specifically, in order to support a T-shaped beam component.

4.7. Thus, combining GOODACRE and THOMAS could be performed to successfully produce applicant's claimed structure.

IV. Conclusion

1. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of

the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina M. Lupino whose telephone number is (571) 272-6557. The examiner can normally be reached on 8:30am - 5:00pm EST.
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

6. GML



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